THE RISE OF HUMAN RIGHTS

A CANADIAN OUTLINE

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CONTENTS

Introduction 5

The Right to Freedom of Person 6

The Right to Human Equality 9

The Right to Education 12

The Right to Earn a Decent Living 15

The Right to Freedom of Conscience 18

The Right to Equality before the Law 22

The Right to Participate in Government 23

Conclusion 34

FOREWORD

As part of its continuing education programme, the New Brunswick Human Rights Commission is happy to make available this present work that attempts to give a Canadian perspective to the rise of human rights. The Commission is indebted for this work to the author, Leo Ferrari, who is Professor of Philosophy at St. Thomas University, Fredericton, N. B. It is hoped that this publication will serve as a basis for discussion and speculation as well as for a change in attitude, where such is needed, relative to the principles of human rights.

The New Brunswick Human
Rights Commission
Department of Labour
Fredericton, N. B.

THE RISE OF HUMAN RIGHTS

Introduction

On December 10, 1948, the entire world witnessed the Universal Declaration of Human Rights by the General Assembly of the United Nations meeting in New York. This international assembly then called on all its member countries to promulgate the ideals contained in the Declaration. These ideals are expressed most succinctly in the second article of the Declaration:—

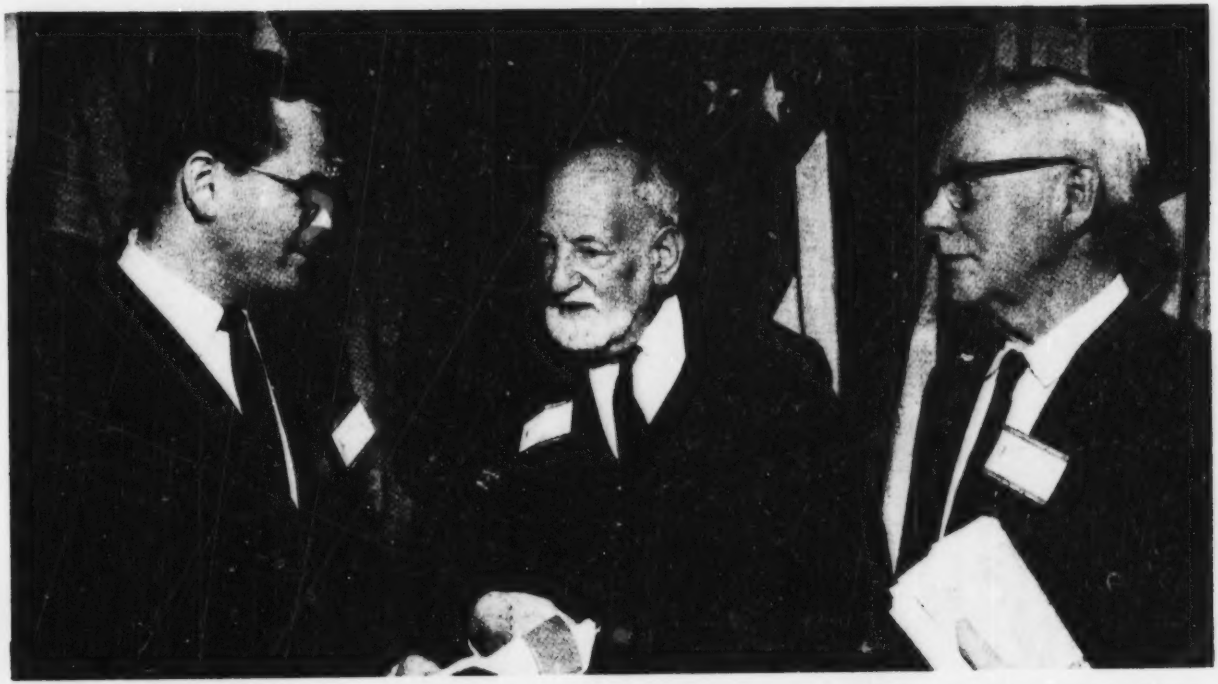
> Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The succeeding years resulted in the growing impact of the contents of the Declaration upon the nations of the world. As a result, 1968, the twentieth anniversary of the Declaration, was observed on a world-wide basis as the International Year for Human Rights.

Canada's active participation in the ideals of the United Nations Declaration is manifest from the many publications which have appeared since 1948 on various practical aspects of the Declaration. In particular, the Legislative Assembly of the Province of New Brunswick formulated the Human Rights Act, which received Royal Assent on September 15, 1967. Subsequently, the New Brunswick Human Rights Commission was established.

The frame of reference of the Commission is set out clearly in the Human Rights Act which was revised in 1971:

> The Commission has power to administer this Act, and without limiting the generality of the foregoing, it is the function of the Commission,
>
> (a) to forward the principle that every person is free and equal in dignity and rights without regard to race, religion, colour, nationality, ancestry, place of orgin or sex;
>
> (b) to promote an understanding of, acceptance of and compliance with this Act, and
>
> (c) to develop and conduct educational programmes designed to eliminate discriminatory practices related to race, religion, colour, nationality, ancestry, place of origin or sex.
>
> (Human Rights Act, Province of New Brunswick, sect. 12)



Nobel Peace Prize was awarded in 1968 to Professor René Cassin (Center) for his work in the field of human rights. The universal dimensions of human rights were discussed with Professor Cassin by the first New Brunswick Ombudsman, Dr. T. Ross Flemington (right) and Dr. Noèl A. Kinsella, Chairman, New Brunswick Human Rights Commission.

What Human Rights Commissions and other similar bodies have demonstrated, is the growing impact of the United Nations Declaration upon the equalizing of opportunities for all citizens of the free world. But the Declaration itself did not suddenly materialize on December 10, 1948. Behind it lies a long history of relentless endeavour to bring justice to all peoples, regardless of the social and economic obstacles to be overcome. Through the long gamut of history, one can see an ennobling spirit at work, ever seeking to find expression in justice, mercy and kindness for all. From this point of view, the United Nations Declaration is seen as the most important formulation of beneficent forces that have long sought universal expression in the development of mankind.

This pamphlet aims to give an historical sketch of these truly humanizing forces that have woven dignity and grandeur into the story of mankind. Only more recently have they found universal and lasting expression in the Declaration of the United Nations. This being so, the manner of treatment will be to take certain of the more important aspects of the Declaration and give a very brief sketch of some of the events of history that led up to its final formulation in the Declaration.

The Right to Freedom of Person

In the very first article, the Declaration states quite explicitly:

> All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

As commonplace as these ideals are today in the West, nevertheless, a glimpse at history shows that in the past, the general position was quite the reverse. Mostly, circumstances of birth resulted in the denial of freedom, equality and dignity.

In complete opposition to these ideals of the Declaration, stands the ancient practice of slavery. The slave is the property of his master, to be used or abused by him as he sees fit. So well established was this practice in the fifth century before Christ, that even Aristotle, the enlightened Greek philosopher, regarded it as a normal and necessary practice of society. Later, the great Roman Empire was itself built upon the widespread, legalized practice of slavery. In earlier Roman law, this included absolute power of life and death by the master over his slaves.

The arrival of Christianity upon the scene promised well, since it taught the value of each individual soul before God.

However the possibilities for improvement were short-lived as the Dark Ages closed in upon Europe. From the fifth to about the tenth century wave after wave of plundering barbarians threatened to extinguish all traces of ancient civilization. From these widespread devastations there eventually emerged the feudal system of the middle ages. This united lord and vassal in general terms of protection in return for allegiance and labour. This custom did not approach uniformity and codification until it began disappearing about the end of the thirteenth century. At its best, the feudal system recognized mutual rights between lord and vassal, and therefore presented some advance on the slavery of antiquity.

However, with the growth of navigation and explorations, particularly from the fifteenth century onwards, the evil of slavery took on new and ominous dimensions. Christian though Europe was by this time, religious principles were apparently reconciled to the demands of economics. The new lands contained large reserves of what was potentially, cheap coloured labour. These were particularly abundant in Africa. During the seventeenth and eighteenth centuries, many of the countries of Europe harvested the profits of slave-trading. The venture was given added impetus by the beginnings of the industrial revolution, in which England was a leading power.

The resulting dehumanization of the coloured masses did not go entirely unchallenged. In France, a law of 1685 under Louis XIV called for humane treatment of the slaves on the the plantations. In 1788 a *Societe des Noirs* was formed in Paris which sought the abolition of slavery. England too, contained its opponents to slave-trading. Opposition to the practice was first voiced, and acted upon, by the Quakers, beginning in 1727. Growing sympathy eventually resulted in parliamentary abolition of the practice by a Bill of 1807. Earlier in 1794, the United States had already forbidden her citizens to participate in slave-trading, and the importation of slaves was prohibited by a law of 1808.

Condemnation of slave-trading first came on an international level from the Congress of Vienna in 1815. Subsequently however, it required most of the nineteenth century to achieve a *de facto* abolition of the practice throughout the various countries of Europe.

These things being so, the growth of civilization and the humanization of mankind seems to have finally resulted in the abolition of the evil of slavery. Consequently, the Declaration of the United Nations may seem merely to be passing a verdict upon one of the greatest crimes of history when it states in Article 4:

> No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

And further in Article 5:

> No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

However, what is not sufficiently recognized in the more civilized countries is that another form of slavery continues to thrive in the twentieth century. This is the practice known as "white slave traffic", which trades in women and children for the purposes of enforced prostitution. A highly profitable form of slave-trading, it operates at both the national and international levels. Its innocent victims include those people who suddenly "disappear" without a trace, leaving only speculations as to their fate.

International attempts as abolishing white slave traffic began in 1864 and a world congress of 1899 developed the International Bureau for the Suppression of Traffic in Women. Later international conventions to suppress the practice were held in 1910, 1921 and 1923. White slave traffic became one of the important concerns of the League of Nations soon after its formation in 1920. The traffic entered into a thriving era after World War II. A United Nations report of 1946-47 contains many records of convictions of traffickers in women. It was one of the aspirations of the late President Kennedy that a truly international abolition of all forms of slavery could be effected. Though he was killed, the ideal of freedom for all persons did not die with him.

Looking back over the history of Canada, it is seen that while slavery was not a major factor in its development, nevertheless the use of slaves was common until the beginning of the nineteenth century. The proportion of Negro slaves rose, both as a result of the arrival of opulent British settlers, and on account of the migration of American colonists during the revolutionary period. In addition, slavery was a well-established practice among the Indians, as one of the fruits of inter-tribal warfare.

A precedent was set in the British Empire in 1793 when John Graves Simcoe persuaded the legislature of Upper Canada to pass a law forbidding the import of slaves into the province and providing for the automatic freeing of slave children upon reaching the age of twenty-five. By the turn of the century, public sentiment in the British Colonies of North America was in general opposition to the practice of slavery. During the first half of the nineteenth century, Canada became a haven of refuge for many slaves fleeing from the States of the South. In 1851 an Anti-Slavery Society was formed in Canada, formally

acknowledging a long tradition of respect for personal freedom, which continues down to the present day.

The Right to Human Equality

It has been well said that all men are equally men, but all men are not equal. If all men were equal in every way, everyone would be exactly the same. This would make the human world a very dull place, with infinite copies of the same person. In this sense, inequalities are not only inevitable, but most desirable. But there is another sense in which it must be said that all men are equal. This is in terms of the dignity of the human person. Each person, as a human being, is entitled to the same amount of respect and consideration. This is the basic human equality.

Violation of the basic human equality occurs through acts of discrimination. In discrimination, a person does not receive equal consideration along with others, because of such things as skin colour, racial origin, religion, sex, language, or political opinions. Discrimination occurs when a landlord will not let accommodations to a family simply because of their skin colour. Again, certain employers will not impartially consider an applicant because he speaks with an accent, or professes the wrong religion, or no religion at all.

The most obvious place for discrimination is in the area of race-relations, where people are judged, not as people, but by their skin colour. Dark people are supposed to be of inferior stock, a supposition which has been contradicated by science. Innate abilities bear no relation whatever to skin colour. What does result however, is inequality of opportunity, because of discrimination, and so the inability to compete on equal terms. It happens therefore, that skin colour debars people from the full flowering of their innate abilities, which in fact have no relation whatever to the colour of their skin. Too easily, violence and revolution seem the only means of escape from this intolerable victimization. Recent events in the United States have vividly demonstrated the fury of frustration to which this kind of discrimination can lead.

It is of some significance to remark that this kind of discrimination is not by any means confined to a reaction of white to black people and vice versa. The Asiatic Mongols of history long regarded themselves as "superior" to all other races. A similar persuasion of racial superiority prevailed with the American Aztecs. It follows too, that the delusion of racial "superiority" has not been confined to the white races, but has been the common failing of numerous races, both white and coloured alike.

THE RIGHT TO HUMAN EQUALITY

Visitors to New Brunswick seen with Rev. Dr. Clément Cormier, Member, New Brunswick Human Rights Commission.

In the middle of the nineteenth century, "racialism", or discrimination on the basis of racial characteristics, was furthered by the appearance of Count Gobineau's book: *Essay on the Inequality of the Human Races*. Ironically enought, this had, as one of its effects, the conviction that one part of the white race was "superior" to the other parts; a conviction which finally collapsed under the destructive onslaught of two world wars.

Regarding black-white relations, what did happen during the nineteenth century was that Western man, by the use of his technology and the merciless exploitation of the coloured races, came to control most of the globe. This was a phenomenon which was not long in arousing reactions. Beginning from the end of that century, and under the influence even of the Western ideals (which were humanitarian in theory, if not always in practice), the educated classes of the coloured people, began with increasing support, to demand complete equality. This movement acquired great momentum as a result of Ethiopa's defeat of Italy in 1896, and Japan's victory over Russia in 1904; both of which humbled the feeling of "white superiority". There soon followed violent revolutions in Persia, Turkey and China; revolutions aimed at equality and seif-government. The process of racial equalization was aided by the crumbling of empires and the increase in international communications.

Racialism is a perpetuated fallacy when it seeks to judge people solely on the basis of their skin-colour. As a myth, it passes even beyond the point of absurdity in attempting to victimize people for belonging to non-existent "races". Such is typically the case with the people of the Jewish religion, who possess absolutely no biological characteristics which would enable them to be classified as a race. Here it is basically a question of religious discrimination. In the recent past, the Vatican has taken the opportunity of absolving the people of the Jewish faith for any supposed collective guilt in the death of Christ; a verdict which is none too premature.

Religious discrimination represents but one of the many facets of the perpetuation of disadvantage. It seeks presumptuously to exhalt one arbitrarily selected group above others, and at the expense of the latter, who only too naturally concede the issue by feeling "inferior". Essentially the same process is involved in discrimination on the grounds of national origin, political affiliation and income bracket; to name but a few. It is interesting to remark too, that such discrimination is invariably practiced by those who just happen to be in the "superior" faction. In any case, the result of discrimination is a disruptive exclusiveness, which in the long run can only be harmful to the fabric of society.

Discrimination is a violation of basic human equality because it attempts to make of its victims, second-rate citizens. As such, they are the less apt to think of themselves as deserving of equality before the law. Therefore, against such violation of basic human equality, the seventh article of the United Nations Declaration states quite explicitly:

> All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Denial of the right to human equality is not exactly the same as the denial of freedom of person already discussed. This latter reduces the human person to a mere piece of property of another through the practice of slavery. But people can be free, yet denied equality of opportunity with their fellow-men. This occurs through discrimination and is a denial of basic human equality.

The intermingling of peoples of different races, customs and creeds has always created social problems. The earliest known record of dealing with these is the Code of Hammurabi of the Babylonian Empire and dating from about three thousand years before Christ. Much later, in the second century before Christ, Terence, the Roman playwright voiced the sentiments of human equality when he spoke the lines which have since became famous: "I am a human and nothing in the human condition can be foreign to me". Beginning from about the same time, these sentiments became increasingly characteristic of the philosophy known as Stoicism. This regarded man, not primarily as a citizen of any particular state, but as a citizen of the universe.

In theory at least, Christianity taught the value of each individual soul before God. It would seem to follow therefore, there here there was a religious basis for human equality. However, it would appear that the other-worldy emphasis of Christianity had to await the earthy humanism of the Renaissance before there was a movement from equality of souls to the notion of a basic equality of humans. Later, the seventeenth century writer John Milton expressed the religious basis for human equality when he wrote: "no man who knows aught can be so stupid to deny that all men naturally were born free, being the image and resemblance of God himself". The philosopher, John Locke, contemporary and compatriot of Milton's was yet another important influence in the first germination of the ideal of human equality. His voluminous *Letters on Toleration* gave lasting expression to the newly awakened spirit of liberalism prevailing in seventeenth century England.

France of the eighteenth century witnessed a transplanting of the new ideas prevailing in England. This occured principally through such intermediaries as Voltaire and Montesquieu. Increased exposure of the French populace to the new ideas resulted from the work of the Encyclopedists and the writings of Rousseau. It transpired that the famous words: "Liberty, equality, fraternity" became the cry of the French Revolution, a cry which spread through Europe under the patronage of Napoleon's conquering armies.

But the youthful colonies of America were to become the privileged beneficiaries of the new ideals seeking full expression in both England and France. The notion of basic human equality was to thrive spectacularly when transplanted to the new soil. Here, it was unhampered by traditional class distinctions and archiac institutions. Thomas Paine's pamphlets *Common Sense* and *The Crisis* marked the beginning of the vigorous growth of the new thinking. Thomas Jefferson became the influential spokesman not only for the independence of the colonies, but also for a whole way of life based ultimately upon the right to human equality. This is the way of life destined to become the ideal of the Western world.

Canada's belief in the basic human equality of people has been fashioned, not only by the long histories of England and France, but also by the developments in the neighboring United States. An added asset is the fact that Canada is a country with a long history for attracting immigrants from many different lands. More recently, beginning from 1946 over a period of about twenty years, Canada has absorbed more than 2,500,000 immigrants from all parts of the world. This has made for a veritable mosaic which has become possible only by a generally prevailing respect for human equality, a respect which seeks to transcend discrimination on the basis of skin colour, religious creed, or national origin.

The Right to Education

Granted the basic notion of human equality, then it follows that all individuals have the right to the opportunities for full flowering of their innate abilities. This is the aim of education. Therefore, access to this is the right of each and every person. Accordingly, article 26 of the United Nations Declaration states:

> Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Right to education is guaranteed to all in New Brunswick.

Furthermore, as totalitarian régimes have a pronounced tendency to subvert education to their own designs, making of the child a mere puppet of the state, the same article goes on to state:

> Education shall be directed to the full development of the human personality and to the strengthening and respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the mainteance of peace.

Education was not a basic human right in the ancient worlds of Greece and Rome, but was rather confined to the privileged classes. In the middle ages it became principally the concern of the clergy and was accordingly subordinated to theology. However, the origins of the universities in the thirteenth century and the rediscovery of some of the pagan learning of antiquity, were factors which assisted in making for the ideal of education for all, and in all aspects of knowledge. The religious dominance of education subsided further under the influence of the Renaissance from the fourteenth century onwards, with increased knowledge of the literature of pagan antiquity. The scholarly clergyman began giving place to the learned layman.

Subsequently, education continued to flourish, despite temporary setbacks occasioned by the upheavals of the Reformation. During the seventeenth and eighteenth centuries, the towering genius of Sir Isaac Newton did much to promote the study of the sciences of nature.

In general, during the Enlightenment of the eighteenth century, education became increasingly intellectual and aristocratic. A healthy reaction occurred with the Frenchman, Jean Jacques Rousseau (1712-1778), who pointed out the great importance of educating the feelings and emotions. Education should not be merely cerebral, but should develop the *whole* person. Particularly by his influential book *Emile*, Rousseau promoted the then novel ideal of educating the child *as a child*, and not merely as an immature adult. Rousseau's ideas were to have profound effect upon the subsequent development of education.

A most important contribution to education appeared with Johann Pestalozzi (1746-1827) of Switzerland. Pestalozzi was the first to promote the general education of the neglected poor classes. Subsequently, the ideal of education for all citizens was

first adopted by Prussia. This system of education soon became the subject of both respect and envy, particularly with Prussia's defeat of Austria in 1866 and leadership in the unification of Germany in 1871.

It transpired that the nineteenth century witnessed a growing realization of the importance of education for the preservation of national identity. Therefore, it seemed that the modern state could, and should, insist upon a certain minimal level of education for its citizens. An added cogent reason for the need for universal education was the growing industrialization of societies. It became a matter of basic importance for everyone to be able to read, write and calculate.

In England, the Elementary Education Act of 1870 was the first step towards compulsory and free education, both of which were further promoted by subsequent legislation in the closing decades of the nineteenth century. By 1881, the average school attendance had risen to four million, or nearly 11% of the total population. 1891 saw the establishment of free education by a special parliamentary grant. In 1894 a Royal Commission was appointed to inquire into the promotion and unification of secondary education. The Education Act of 1902 eventually resulted in an almost complete network of well-equipped secondary schools and a vigorous system of technical education. Educational progress was adversely affected by the Wars and the Depression of the present century. A thorough recasting of the educational system in England was brought about by the Education Act of 1944.

In France, the great educator of the eighteenth century was Jean Baptiste de la Salle (1651-1719), the founder of the Christian Brothers. The national ideal of compulsory and free primary education first appeared in France's constitution of 1791. Napoleon centralized all education under state supervision by the law of 1806. Subsequently, the need for an extensive national system of education became more urgent with the growth of Germany headed by the educated Prussians. The French law of 1881 required that all teachers in France should possess the "brevet de capacité". It also abolished fees in all primary schools and training colleges. A law of the succeeding year made school attendance compulsory. Legislation of 1886 required that none but lay people teach in public schools and abolished all distinctively religious instruction. The Camille Sée Law of 1890 resulted in the foundation of secondary schools for girls. Reforms in the French secondary school curriculum were introduced by a law of 1902, which co-ordinated it with the primary school curriculum and introduced a full course of secondary studies of seven years duration.

Further reforms introduced in 1923 included a growth in national control of technical schools. After World War II, a radical reform of all facets of education also placed increased emphasis on technical education.

Educational policy in the colonies of America acquired particular significance after the War of Independence (1776-83). The new national ideals of democracy, equality and freedom were intimately linked with the need for education for all citizens. These goals were sought through public support, state control and freedom from religious sectarianism. In line with the realization of the basic importance of education in the new democracy, compulsory school attendance was introduced, beginning with Massachusetts in 1852. While education aimed to give equality of opportunities for all, this was impeded by the segregated school system which separated negro and white children. Attacks upon this segregation intensified after World War II and culminated in the historic Supreme Court decision of 1954, which ruled that such segregation was unconstitutional.

Equality of opportunity afforded by education, is a comparatively recent facet of Canadian history. Indeed, before Confederation, only a few hundred pupils were receiving instruction at the secondary level. After the British North America Act of 1867, education was formally acknowledged to be a provincial responsibility. It is noteworthy that a Free School Act was passed in Prince Edward Island as early as 1852. Similar acts were subsequently passed in Nova Scotia (1864) and in New Brunswick (1871). Today, Canada has ten provincial educational systems, which according to the 1964-65 figures, educated about five million pupils at the elementary and secondary levels. The financing of education through taxation has attempted to make of education, the way to equality of opportuniy for all.

The Right to Earn a Decent Living

The need for universal education was linked with the growing industrialization of the Western world. On the other hand, a good education opened up improved employment opportunities for the proficient and perservering graduate. The result was the modern phenomenon of "social mobility". No longer did sons have to follow the crafts of their fathers, as the advantages of education offered them new, and more remunerative occupations. This applied particularly in the New World, where family trees and impeccable accents took second place to demonstrated abilities.

THE RIGHT TO EARN A DECENT LIVING

The New Brunswick Human Rights Act guarantees equality of opportunity in work.

Even when confined to the minimal level, education can be the means of improving the lot of the working man. In modern society, the use of innate intelligence and even the elementary skills of education, provide the humblest individual with the ability to compare salaries and working conditions and communicate with his fellow-workers over wide areas. The resulting interchange of information and the freedom of communication, will not tolerate exploitation of the worker, or repressive unemployment. Accordingly, article 23 of the United Nations Declaration states:

> Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Allied with these is the important factor of the just wage which will provide the worker and his family with a decent standard of living. Accordingly, the same article goes on to stipulate:

> Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

But the industrialization of society will not of itself promote these ideals. Indeed, the industrial revolution beginning particularly in England in the eighteenth century, while it created economic advantage for the fortunate few, resulted in widespread hardships for the disadvantaged wage-earners. Their plight was all the more desperate in that they found themselves thrown upon the mercies of an industrial giant controlled not so much by the love of human justice as by the lust of monetary profit. Consequently the employer-employee relationship resulted too often in the grinding exploitation of the latter.

This crisis, precipitated by the industrial revolution, helps explain the significance of the school of English philosophy known as Utilitarianism. Its name derives from the Latin word "utilis" meaning useful. Utilitarianism stood for the formation of a new society for the use, not of the few, but of the many which constituted it. The founder of Utilitarianism was Jeremy Bentham (1748-1832). Greatest and best-known of the Utilitarians was the philosopher, John Stuart Mill (1806-1873), who was deeply moved by the social problems produced by the industrial revolution. He is remembered for his defence of human rights and his active concern for the troubled working classes.

Another significant reaction to the same social problem appeared with the philosopher Karl Marx (1818-1883). First-hand experience of the manifest evils of the primitive factory system of the nineteenth century also convinced Marx of the crying need for social change. But he envisioned the solution in terms of "class conflict", setting one class of society in warfare against the other to produce world-wide revolution. From this, he predicted that the wage earner would conquer the capitalist and emerge as "king". Communism, or the common ownership of all property and wealth would become the final, blissful state of mankind.

Fortunately, during this critical period of history, another and more constructive force emerged. This was the movement known as trade unionism, which sought to unite the disadvantaged workers to obtain bargaining power with their employers. After initial setbacks, the trade unions acquired recognition in the second half of the nineteenth century. With the Trade Unions Act of 1871 they finally acquired definite legal status. This was soon followed by other parliamentary acts which promoted the widespread growth of trade unionism and great improvements in the rights and conditions of workers. English trade unionism acquired influential political dimensions with the formation of the Independent Labour Party in 1893. Halted by World War I, and weakened by the depression of the 1930's, the trade unions acquired new influence with World War II.

The problems created by industrialization were also felt in other countries of the world. In particular, certain cities of France had active trade unions from the first half of the nineteenth century. The unions acquired toleration in 1864 and assured legal status in 1884. In the United States, trade unionism became a major factor after 1933, with the New Deal legislation of F. D. Roosevelt's administration. Thereafter it became singularly significant in the moulding of a technological society without precedent in history.

In the comparatively short space of one hundred years, the Canadian economy changed drastically from an agricultural to a predominantly industrial one. Trade unionism began to develop as a power in the later half of the nineteenth century, particularly under the influence of the Trade Unions Act of 1872. This legalized trade unions and gave them the necessary freedom in which to develop and bring about effective legislation of benefit

to the workers. The next year, 1873, witnessed the first attempt to form a national federation of unions, with the establishment of the Canadian Labour Union. A more effective and enduring organization was established in 1893 with the formation of the Trades and Labour Congress of Canada. This retained its identity until 1956 when it merged with the Canadian Congress of Labour to form the Canadian Labour Congress. Today, about one fourth of the labour force belongs to the union movement, whose membership exceeds 1,500,000. Benefits acquired include minimum standards of wages, working hours, annual vacations, as well as workmen's compensation and other necessary safeguards.

In particular, trade unionism in Canada has helped promote legislation guaranteeing workers equality of opportunity regardless of race, colour, religion or national origin. These laws, which are in force in most jurisdictions, began with the Act of Ontario in 1951 and were inspired by the Universal Declaration of Human Rights adopted by the United Nations.

The importance and need for trade unions is expressed by the United Nations Declaration when it concludes article 23 with the words:

> Everyone has the right to form and to join trade unions for the protection of his interests.

Indeed, without the healthful intervention of the trade unions in the nineteenth century, the critical situation may well have exploded into the full-scale revolution envisioned by Karl Marx. Trade unionism substituted justice for exploitation and won for the wage earner decent conditions of work, sufficient income to live in a dignified manner and protection against unemployment in his old age.

The Right to Freedom of Conscience

Throughout history, the individual has constantly sought to escape from the terror of his solitude by immersion in all kinds of collectivities, whether social, political, religious or even philosophical. No matter in what area of human activity there was always the "system", which promised (seductively enough), the final answer to the enigma of the human condition. But in spite of all of these social palliatives, the cold, brute fact remains that each individual is born alone and dies alone, and there is ample opportunity for solitude in between.

A notable reaction to the "system mentality" occurred with the gloomy Dane, Soren Kierkegaard (1813-1855), who was the founder of the philosophy known as Existentialism. This

THE RIGHT TO FREEDOM OF CONSCIENCE

". . . everyone has the right to freedom of thought, conscience and religion."

owed its name to the realization that no system, however, ponderous and omniscient, can compare with the vivid and immense problems which sprang into large life from the basic and unique fact of one's own existence. But back of Kierkegaard, there was a whole history of tradition which sought (unwittingly enough) to extricate the reluctant individual from the solace of the stifling systems in which he repeatedly attempted completely to immerse himself.

No amount of science, savoir faire or technology could obliterate the mystery which surrounded the origins and the end of each individual and all he represented. The enigma of the human condition was well expressed by Alexander Pope (1688-1744) when he penned the lines:

> Could he, whose rules the rapid comet bind,
> Describe or fix one movement of his mind?
> Who saw its fires here rise, and there descend,
> Explain his own beginning, or his end?

In spite of all his progress and perfections, man remains as ignorant as ever about his own origins and his final fate. Is all finished with the sealing of the casket and the sorrowful parade of erst-while friends as mourners? Or will he be permitted the inestimable privilege of some reappearance a thousand years or so, from now, as the subject of some delving archeologist who happens to come upon these skeletal fragments? Or will something else of him also survive?

The shattering of the shell which protected the individual from these gnawing doubts goes back again to the middle ages. There, universality of a long-entrenched belief rescued the helpless individual from the terror of uncertainty. All could be absolved by total obeisance. Dogma, ritual and conformity dissolved all doubts. Or so it appeared. But the enigma of the individual was not so easily elucidated, notwithstanding the final persuasions of the Inquisition. As a result, innumerable heresies flourished in the thirteenth, fourteenth and early fifteenth centuries; heresies which fore-shadowed the yet more violent religious upheavals of the Reformation.

The break came with the outlawing of Martin Luther in 1521 because of his new doctrines and his stand against abuses common in the Church. In 1523 Zwingli opened Zurich to the influence of the new Reformation. Henry VIII made himself head of the English church in 1523, and 1535 saw the appearance of Calvin's *Institutes of the Christian Religion* which was the first formulation of protestant thought. Among other things, here followed the religious wars of 1562-1609, involving principally France and the Netherlands. These, the first of many

such wars, presented the paradoxical spectacle of entire armies butchering one another in the name of the same compassionate Christ.

The first fruits of the Reformation were therefore, widespread intolerance and enmity which expressed themselves in suffering and bloodshed throughout Europe. But even here, temperate forces were also at work. In the middle ages, principally under the lasting heritage of St. Augustine of Hippo (354-430), Christianity had come to identify itself with an austere, other worldly view of creation which was theocentric, or centered around God. Man and his world counted for little in this perspective. However, from the thirteenth century onwards, growing acquaintance with the rediscovered classics of pagan antiquity resulted in a change of emphasis from the divine to the human aspect of reality. The reason for this was that the scholars of the later middle ages came to acknowledge that they had much in common with the noblest sentiments of the pagans of antiquity. As a result, basic human values, which transcended religious differences, came to the fore. Accordingly, theology was tempered by the tolerant outlook known as Humanism, whose chief interest lay in man and the problems of the human condition. The spread of the new mentality was greatly aided by the invention of printing in the middle of the fifteenth century.

Implicit in the new thinking was respect for the individual as a rational being, trying to unravel the enigma of his own existence. The famous French philosopher, René Descartes (1596-1650) was the spokesman for the new mentality, with his well-known assertion: "I think, and so I am". Powerful international movements are impressive, religions are comforting and reassuring, but in the final analysis, it is only the individual who possesses the unique ability to think. Systems may encourage this ability and guide it, but if man is to attain his full stature as a rational being, they cannot substitute for it. The final answer to his existence and his fate therefore lies with the individual. To grant him this inalienable autonomy is to grant him freedom of conscience.

Under the winds of liberalism prevailing in seventeenth century England, freedom of conscience made much progress. Religious freedom received concrete expression with the Toleration Act of 1689. Within a hundred years, many of the countries of the Continent enacted similar legislation.

In general, during the eighteenth and nineteenth centuries, sectarian differences came to be regarded as being of lesser account in view of a growing threat to the entire Christian

tradition. This menace was a scientifically-begotten materialism, which looked not to God, but to "matter", for the answers to the riddles of the universe. It seemed with increasing certainty, that all could be explained, not by some beneficent Creator presiding over the universe, but merely by the motions of matter in accord with scientifically known laws. The confidence of the materialists did not subside until well into the twentieth century, when it became evident that their seemingly final answers to the riddle of the universe were but the preambles to far greater mysteries. Meanwhile, the confrontation between science and religion reached its peak in the nineteenth century, especially as a result of the appearance of Darwin's *Origin of Species* in the middle of that century. This seemed to make of man a mere byproduct of the evolutionary process and a distant descendent of the ape.

The bleak, irreligious atmosphere of the nineteenth century also made for greater co-operation and understanding between the previously dissident religious factions. Menaced everywhere by the growing threat of the hostile materialism, the various churches sought strenghtening links that were both international and inter-denominational. Accordingly, there sprang up co-operative enterprises in the various domains of the churches' activities. To this era belong the important foundations of the World's Young Men's Christian Association (1878), World's Young Women's Christian Association (1894) and the World's Student Christian Federation (1895).

These various associations were the expression of a unifying spirit which constituted the origins of the Ecumenical Movement and won the support of all but a few of the major denominations. The term ecumenism finally acquired its modern meaning from the World Missionary Conference of 1910 in Edinburgh. It received more concrete expression with the formation of the World Council of Churches in 1948.

Fittingly enough, 1948 was also the year of the United Nations Declaration of Human Rights. In it, articles 18 states the right to freedom of conscience as follows:

> Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Finally, even reluctant Rome was drawn into the cause of ecumenism, as Vatican II (1962-65) saw the appearance of

two Decrees, the one on Ecumenism *(Unitatis redintegratio)* and the other on Religious Freedom *(Dignitatis humanae)*. Both these documents gave cautious approval to the healthy ferment that had finally prevailed in the Christian churches.

Nurtured by both the English and the French cultures, Canada has always been a country whose religious character reflects the diversity of both traditions. As a result, religious freedom has been singularly successful in the new milieu. Roman Catholicism is the acknowledged religion of over eight million Canadians, while another six million belong to either the United Church of Canada or the Anglican Church of Canada. Roman Catholicism first made its entry through the early French interests in Canada, but subsequent immigrations have considerably modified, not only the French connection with Roman Catholicism, but the religious character of Canada as a whole. The result has been an increase, not only in diversity of belief, but in religious tolerance. Freedom of religion was formally expressed as one of the inalienable rights of Canadian citizens in the parliamentary legislation of 1960.

In all that had transpired since the unified Christendom of the middle ages, it gradually became clear that religious diversity was no impediment to the good of society. Rather did it consolidate that good, by basing it on many foundations. The modern notion of a pluralistic society had proven its worth. It also had as its fundamental principle, the right of freedom of conscience of the individual, and therefore his inalienable right to belong to any, or none of the religions of his society.

The Right to Equality Before the Law

A particularly important aspect of the basic human equality already discussed, is the right to equality before the law. Accordingly, the United Nations Declaration states:

> All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of the Declaration and against any incitement to such discrimination. (Article 7)

Discrimination can occur, not only because of skin colour, creed or national origin, but also in matters of legal procedure because of the slender means of persons involved. This was a recognized problem from as early as the era of Henry VII when a statute was passed which granted the poor their writs for nothing and provided for representation by legal counsel in court. Nevertheless, problems persisted in this area and in 1914

effective rules of court were introduced which exempted the poor from court costs and required representation by solicitors and barristers.

A further improvement in arrangements came in 1926 when most of the responsibility was vested in the Incorporated Law Society, which accordingly received a government grant for expenses. In 1949, the Legal Aid and Advice Act was introduced, with application to England and Wales.

In the United States, organized legal aid dates from 1876 when such a service was set up in New York city to assist German immigrants. Growth of urbanization and the number and complexities of laws has given considerable impetus to the movement. In 1951, legal aid organizations handled 350,000 cases at a cost of nearly $2,000,000.

This right of the person to effective remedy in legal matters, is clearly stated by Article 8 of the Declaration:

> Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

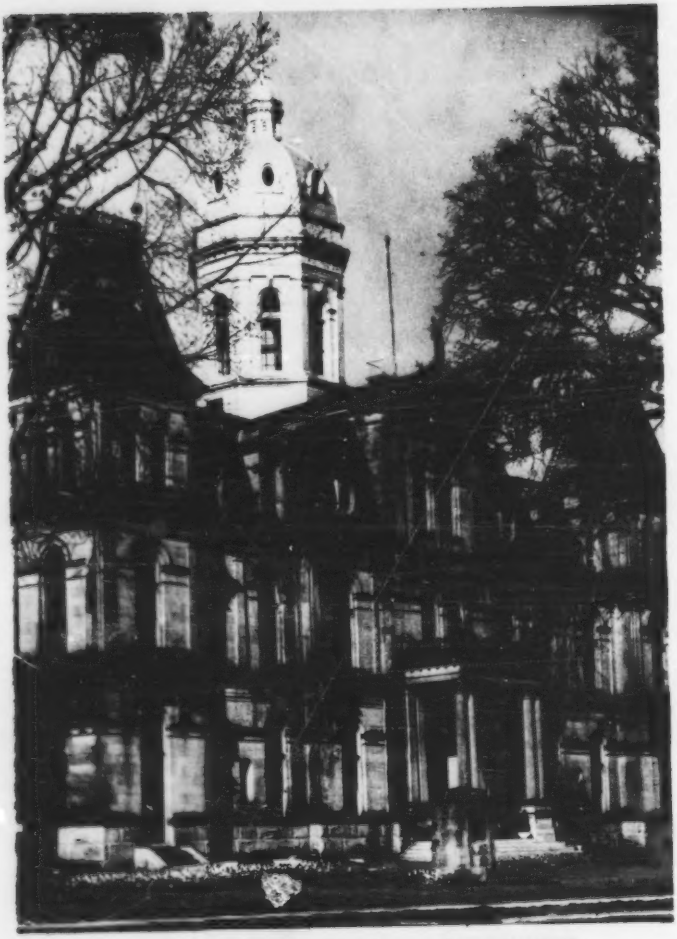
Another possible source of inequality before the law, is through despotism resulting in arbitrary arrests, detentions and even executions, all without recourse to impartial law courts. Accordingly, Article 10 reads:

> Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Even before the stage of due legal process in an impartial court, injustices can be perpetrated by arbitrary arrests and indefinite detentions of the prisoners so obtained. To prevent this, English law has long contained the tradition now known as *habeas corpus*. This prevents a prisoner from being detained without a formal charge being brought against him in court. Such procedure received effective promulgation with the passage of the Habeas Corpus Act in 1679, thanks largely to the efforts of the beneficent Lord Shaftesbury. Thereafter it was inherited as part of the common law of Canada and the American States.

The Right to Participate in Government

The best known form of participatory government in the ancient world was that of Athens. From early in the sixth



THE RIGHT TO PARTICIPATE IN GOVERNMENT

". . . the will of the people shall be the basis of the authority of government.'

century before Christ, the Athenian citizens began sharing in the government of their city-state. Thus was constituted the first classical example of democracy, or the self-rule of the people. It is noteworthy that only the fully fledged male citizens were admitted to this duty.

Later, when the Roman Empire absorbed the world of the Greeks, along with many other peoples, quite a different system of government prevailed. This centered all authority in the divine personage of the Emperor. This was the cue for the middle ages, but with the growing difference that the Emperor's authority derived from God through the Pope. The thirteenth century saw the Pope as the one focus of all authority, both temporal and spiritual.

The shattering of Christendom with the Reformation produced many independent kingdoms no longer subordinated to the central authority of Rome. Their new-found freedom might have been very disconcerting were it not for the appearance of a very influential little book entitled *The Prince*. Its author, the Florentine, Niccolo Machiavelli (1469-1527) maintained that the power of the ruler was absolute, and not subject to the confines of traditional morality. Acting for the supreme good of the state, he could do no wrong. The same type of thinking appeared with the Englishman, Thomas Hobbes (1588-1679). Thus was ushered in, the era of monarchial absolutism, or the age of the divine right of kings. The king ruled in the name of God and was answerable to God alone for his actions. Its most memorable expression occurred in France of the eighteenth century, under Louis XIV with his neat summation: "L'état, c'est moi." — (The state? I am the state.)

Meanwhile, another and more democratic influence was at work. As early as the thirteenth century, the much misunderstood Thomas Aquinas (1225-1274) had maintained that the ruler ruled only in the name of the people, so that his authority ultimately derived from them. Aquinas' conceptions of political authority made their influence felt in *The Laws of Ecclesiastical Policy* of the Englishman, Richard Hooker (1553-1600).

Politically, England had matured on the basis of past experiences. The famous Magna Carta of 1215 had demonstrated in a very tangible manner that the king's authority was not beyond question. Later, parliament also served as an effective check upon monarchial excesses. Indeed, the rebellion of 1668 saw both Wigs and Tories united in terminating the brief reign of James II. At the expressed invitation of both political parties, William III of Orange crossed the Channel with a Dutch army and was appointed to the vacant throne. There

followed an era of toleration and liberty which made of England the source of the famous Enlightenment.

As early as the succeeding year of 1689, there appeared John Locke's *Treatise on Civil Government,* which accordingly extolled the right of the community to govern itself and to choose the ruler best qualified to assist in such self-government. It is significant that Locke's work was one of the sources of inspiration for the American Declaration of Independence in 1776. Meanwhile, the English conception of politics had spread abroad, and had particularly evident impact upon French thought.

In that country, 1748 saw the publication of Montesquieu's *The Spirit of the Laws.* The work was evidently modelled upon the English constitution, with its principle of the balance of power in government and the checks which were designed to restrain the governing body. Subsequently, Jean Jacques Rousseau published his *Social Contract* in 1762. Rousseau depicted society as constituted by a contract made among themselves by independent individuals. The regent was nothing more than a figurehead to the social contract and subject to it. Accordingly, Rousseau favoured government by the general will, otherwise known as democratic government. It is noteworthy that his teaching found rapid expression in the American Constitution of 1787. Subsequently, in the United States, unhampered by archiac institutions and monarchies, democracy expanded rapidly during the early nineteenth century. Its growing influence was also felt during the same century in Europe, even if impeded by temporary setbacks.

At the basis of the modern notion of democracy, is the suffrage, on the right to vote freely in electing representatives to the governing institutions. In the early days of modern democracy, this was exclusively a male privilege, from which accordingly all women were excluded. While the universal male suffrage was introduced in France as early as 1792, it did not receive effective expression until the constitutional laws of 1875. In England, the suffrage was narrowly restricted until the reforms of 1867 and 1884. Suffrage in the United States was restricted to property holders in the first decades of self-government. However, by about 1830 universal suffrage for white males became widely accepted.

During the nineteenth century the southern states excluded Negroes from voting. There was accordingly still progress to be made towards the complete fulfillment of Lincoln's ideal in his Gettysburg Address of 1863: "Government of the people, by the people, for the people". Beginning in 1927, important decisions of the Supreme Court were to begin transforming this

ideal into a reality. In the more recent past, the Negro vote has become of critical importance, even on the national level.

In Canada, responsible democratic government did not automatically arrive with the first settlers. Many of the early problems were solved by conscience, opportunity or expediency. On the other hand, the British courts maintained that citizens who ventured abroad to settle in the New World also took with them, the rights and privilges which they enjoyed at home. From this persuasion there grew a feeling for some form of representative government in the more settled colonies. As a result, popularly elected legislative assemblies were set up as soon as circumstances permitted. Such was the case with Nova Scotia, Prince Edward Island, New Brunswick, Newfoundland and Upper Canada. Nova Scotia led the way with the first meeting of a representative assembly on October 2, 1758. Of the others, all but Newfoundland had followed suit by the end of the century. Responsible government which made the Sovereign's ministers responsible to the popularly elected house, was achieved soon after 1848 by all colonies. Internal autonomy was achieved in 1867. Thereafter divergencies between political parties began to decline and differences were restrained to the means of achieving common ultimate goals.

Another important development in the exercise of modern democracy was the extension of the suffrage to women, something beyond the wildest dreams of the ancient Athenians. At the same time, it is interesting to observe that the Greek playwright Arisophanes (444-380 B. C.) did write a comic play, *Lysistrate,* in which he depicted the women of Greece going on strike because of the prolonged absence of their warring menfolk from the family hearth. In actual fact, however, women were regarded as inferior beings, hardly to be entrusted with sharing the reins of political power.

The modern emancipation of women begins with the appearance in 1792 of Mary Wollstonecraft's *A Vindication of the Rights of Women.* However, not until the beginning of the twentieth century did the equality of women acquire organization and effective influence. There began the struggle of the suffragettes, or women seeking the right to vote. They won their first momentous victory with the Representation of the People Act of 1918. Ten years later, in 1928, all women over the age of 21 were admitted to full voting rights. The act of 1918 had great impact in the United States where the voting rights of women had been an issue from the middle of the nineteenth century. Voting rights, irrespective of sex became a reality in 1920 with the ratification of the 19th amendment. Thereafter, the voting rights of women spread throughout the civilized world.

Modern democracy rests upon the participation of all citizens in the government of their country. This has become the ideal of the free world and is stated in Article 21 of the United Nations Declaration:

> Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

The basis of the government's authority is therefore the collective will and consent of the people that they govern. Periodically his will and consent will be reaffirmed by free elections. Accordingly Article 21 goes on to stipulate:

> The will of the people shall be the basis of the authority of the government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

CONCLUSION

In the preceding pages, certain aspects of the United Nations Declaration of Human Rights have been considered. By appropriate cross-sections through history it has been possible, in the case of each aspect, to sketch its growth and development down through the ages. The aim has been to give some appreciation of the lengthy history that lies behind each facet of the present Declaration. The more we know of these historic struggles, the more can we value the hard-won heritage which is ours to preserve.

Yet the tradition which we seek to preserve is by no means one of conformity to the point of uniformity. Rather is it a healthy condition of the human family in which diversity is not merely sufferable, but rather a welcome stimulation. In particular, nothing is more vital to the continued well-being of that family than the right to freedom of personal opinion and expression of such opinions. As long as such differing viewpoints remain within the hallowed frame of law and order, they can only stimulate and benefit the societies in which they thrive. In this regard, a special value attaches to the freedom of the printed word, and more particularly to the freedom of the press. Only by such liberty can justice be promoted and injustices brought to public censure and remedial process.

Therefore, the publicising of sound opinion and the dissemination of reliable information become, as it were, the guardians of the rights previously outlined. To this end, the 19th article of the Declaration is specially relevant:

> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Finally, attention should be drawn to one disadvantage of the previous historic outline of the rise of human rights. We might be tempted to think that after centuries of struggling, with the Declaration of Human Rights the human race has finally "arrived". In other words, we have reached the pinnacle of achievement towards which all previous ages have been striving. If we think this way, it is only because we cannot see the endless heights still towering above us. Slavery exists today in the world. Discrimination survives, even in democratic countries. In Canada, Eskimos, Indians and Black people still suffer injustices. Again, not everyone enjoys equality of opportunity for education. Many too, are the families still being ground between the twin mill-stones of failing poverty and rising costs. Further,

every shining city harbours its neglected harvest of squalid slums. There exists too, a large proportion of the human family to which freedom of conscience is an unknown entity. These same millions, far from enjoying the basic rights, are deprived to the extent of being held captives in their own countries.

When we consider such realities of the modern world, we can only conclude that the rise of human rights is not an accomplished fact; it is a fact still awaiting accomplishment. With the Declaration of Human Rights, the struggle for universal justice has not ended; it has only just begun.